

EXECUTIVE OFFICER SUMMARY REPORT  
December 14, 2005

ITEM: 9

SUBJECT: Administrative Assessment of Civil Liability against the City of Carlsbad for violations of Order No. 99-08-DWQ, Statewide General Construction Storm Water Permit, at the Municipal Golf Course project at 5800 Hidden Valley Road, Carlsbad, California, WDID No. 9 37C337203. (Tentative Order No. R9-2005-0277, Document No. 2) (Frank Melbourn)

PURPOSE: The Regional Board will decide whether to accept the City's submitted payment of the recommended liability and waiver of the right to a public hearing, or to reject the offer and schedule a public hearing for the February 2006 Regional Board Meeting.

PUBLIC NOTICE: On November 14, 2005, a 30-day public comment period was noticed in the North County Times. Furthermore, the notice was posted on the Regional Board's Web Page along with the City's signed waiver of its right to a public hearing. As of December 1, 2005, no comments have been received on this item.

DISCUSSION: The Regional Board was informed in a newspaper article that the City of Carlsbad had initiated construction of its municipal golf course. (Document No. 1, Site Map) On October 14, 2005, Regional Board Inspector Eric Becker of the Regional Board's Northern Watershed Unit inspected the 400-acre site. Mr. Becker noted the inadequacy of sediment and erosion control Best Management Practices (BMPs) at the site, and upon consultation with City staff, learned that the City failed to submit a Notice of Intent (NOI) for coverage under the State Water Resources Control Board's General Construction Storm Water Permit, Order No. 99-08-DWQ (Document No. 3, Inspection Report).

On October 17, 2005 the City hand delivered a NOI to the State Board in Sacramento (WDID No. 937C337203). Mr. Becker conducted a follow-up inspection on October 18, 2005 where he noted the continued inadequacy of site BMPs (Document No. 4, Inspection Report).

Subsequently, The Executive Officer issued Administrative Civil Liability (ACL) Complaint No. R9-2005-0264 against the City on October 20, 2005. The \$23,900 Complaint alleged that the City: 1) failed to file a NOI for 39 days and 2) installed inadequate BMPs for 20 days. The maximum liability the City faced for each violation was \$10,000 per day per violation, or a total maximum liability of \$590,000. The Complaint recommended a total liability of \$23,900, which included \$3,900 for failing to file a NOI and \$20,000 for failing to implement adequate BMPs.

On October 28, 2005, the Regional Board reinspected the site (Document No. 5, Inspection Report) determined the City had made significant strides. The site is now in compliance with the General Construction Storm Water Permit.

On November 18, 2005, the City of Carlsbad waived its right to a public hearing, and tendered a check for \$23,900 (Document No. 6).

KEY ISSUES: None.

LEGAL CONCERNS: None.

SUPPORTING  
DOCUMENTS:

1. Site Map
2. Tentative Order No. R9-2005-0277
3. Regional Board Inspection Report, October 14, 2005
4. Regional Board Inspection Report, October 18, 2005
5. Regional Board Inspection Report, October 28, 2005
6. City of Carlsbad's signed waiver and check

RECOMMENDATION(S): Adopt Tentative Order No. R9-2005-0277